

## **REMARKS**

### **INTRODUCTION**

In accordance with the foregoing, specification paragraphs 44, 46 and 49, and claims 1-4 have been amended. Additionally, new claims 10-12 have been added, and FIG. 1 is enclosed with proposed amendment shown in red. Furthermore, reference to the Japanese Patent Application No. 2000-391310 on page 1 of the specification has been deleted.

New claims 10-12 are readable upon elected species of FIGS. 1 and 2 of Applicant's application. Claims 10-12, as well as amendment to claims 1-4, are supported by embodiments at, for example, paragraphs 33 and 44, and FIGS. 1 and 2 of the Applicant's application. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-12 are pending, of which claims 1-5 and 10-12 are under consideration.

### **NON-ELECTED CLAIMS 6-9**

Applicant respectfully notes that claims 6-9 are dependent on generic claim 1 and include all the limitations of the claim 1. As noted by the Examiner in the Office Action dated October 9, 2002, at least claim 1 is generic to all species. Applicant respectfully submits that generic claim 1 is in condition for allowance, for at least the reasons stated below, and all dependent claims including claims 6-9 should be included in allowance, as provided by 37 CFR 1.141. An action to that effect is courteously solicited.

### **OBJECTION TO THE INCORPORATION**

Applicant respectfully submits that an objection to the incorporation of essential material is rendered moot in view of the deletion of such reference from the Applicant's application.

### **OBJECTION TO THE DRAWINGS**

The drawings were objected to because of the Examiner's assertion that each part of the invention, such as, (a) the operating surface and the seat in claim 3; and (b) the axis in claim 4 should be designated by a referential numeral or character.

In view of the accompanying *Letter to the Examiner Requesting Approval of Changes to the Drawings*, the outstanding drawing objection is respectfully traversed. No new matter is being presented, and approval and entry are respectfully requested.

In particular, Applicant respectfully notes that (a) the operating surface is designated by a reference numeral/character "18f" in FIG.1, as filed on October 16, 2001, and appears in various portions of the specification, for example, in paragraph 44, line 19 and paragraph 48, line 2.

With respect to (a) the seat, a reference thereto is deleted from claim 3.

With reference to FIG. 1, claim 4 refers to "an axis" of rotation of said feedscrew 42 and "an axis" of pivoting of said internally threaded member 44. Applicant respectfully notes that these axes are described in, for example, paragraph 45, lines 3-6 and 14-17, respectively. Applicant further submits that one skilled in the art, with reference to FIG. 1 and the appropriate portions of the specification, will fully understand the axis of rotation of said feedscrew 42 and the axis of pivoting of said internally threaded member 44, as referred to in claim 4. Applicant notes that since every rotatable or pivotable member has an axis of rotation or pivoting, similar to the fact that every elongated member has opposite ends, inclusion of such reference numerals for every rotatable or pivotable member results in undue complexity of the drawings.

In view of the above, withdrawal of the outstanding objection to the drawings is respectfully requested.

#### **REJECTION UNDER 35 U.S.C. §112**

Claims 1-5 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

With respect to claims 1-5, Applicant respectfully submits that as amended claims 1-5, and new claims 10-12 particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As suggested by the Examiner on page 3 of the Office Action, dated December 16, 2002, a second occurrence of the phrase "permitting said first and second members" has been deleted from claim 1. Additionally, the phrase "substantially" has been changed to "approximately" in claims 1 and 4. Applicant respectfully submits that the phrase "in an approximately vertical plane approximately parallel to" provide more clear definition in terms of a location or an arrangement of a member. Furthermore, the phrase "operating position" has been changed to "operating portion" in line 23 of claim 1.

With regards to the “extension lines” recited in claim 2, the Examiner mistakenly refers these lines to “two straight lines which pass the midpoints of the lengths of the respective elongate holes 32, 34 and which are perpendicular...,” as disclosed in paragraph 44, page 24, lines 2-6 of Applicant’s application. While these two straight lines are shown in FIG. 1, the “extension lines” recited in claim 2 are not shown in FIG. 1. However, the “extension lines” recited in claim 2 are described in paragraph 44, page 23, lines 21-24. Since the relationship between these extension lines is important in understanding an aspect of the present invention, Applicant respectfully propose to amend FIG. 1 to include the extension lines and their corresponding reference characters “EXT 1” and “EXT 2.” This proposal is shown in enclosed red-inked copy of FIG. 1, which is submitted for an approval by the Examiner.

Applicant respectfully notes that the extension lines EXT 1 and EXT 2, as shown in enclosed red-inked copy of FIG. 1, of the elongate holes 32 and 34 are distinguishable from the straight lines passing the midpoints of the lengths of the elongate holes 32 and 34. Since the extension lines EXT 1 and EXT 2 intersect each other, the vertical position of the pedal pad 18, which corresponds to the recited operating portion, is lowered. At the same time, the operating surface 18f is gradually inclined upwards as the pedal pad 18 is moved in the rearward direction of the vehicle, as described in paragraph 44, lines 21-29 of Applicant’s application. On the other hand, the straight lines passing the midpoints of the lengths of the elongate holes 32 and 34 are discussed in the same paragraph, lines 29-48, to explain the upward inclination of the operating surface 18f as a result of the rearward movement of the pedal pad 18. In this respect, applicant respectfully requests that claim 2 be reconsidered in view of the above.

Accordingly, Applicant submits that the foregoing claims particularly point out and distinctly claim the subject matter which the Applicant regards as his/her invention, and withdrawal of the rejection is earnestly requested.

#### **REJECTION UNDER 35 U.S.C. §102**

Claims 1-3 stand rejected under 35 U.S.C. §102(b) as being anticipated by Sitrin (US 4,875,385) which corresponds to Japanese Utility Model #6-40292 cited by applicant on October 16, 2001. Additionally, claims 1, 2, 4, and 5 stand rejected under 35 U.S.C. §102(e) as being anticipated by Toelke et al. (US 6,367,348 B1). These rejections are respectfully traversed.

With Respect to Sitrin and Claims 1-3

Contrary to the assertion of the Examiner, Sitrin appears to disclose a pedal device having an operating portion 22/44 which moves in horizontal direction of a vehicle. That is, FIG. 2 clearly shows that the operating portion 22 of Sitrin is translated in a horizontal direction, as indicated by a solid line (before) and a dotted line (after) of the operating portion 22, and not in a vertical direction/position, as recited in claims 1-5 and 10-12 of Applicant's application.

For example, column 3, lines 54-55, column 5, lines 30-33, and FIGS. 1 and 2 of Sitrin appear to disclose a pair of guides 12d and 12e which are parallel to each other and extend horizontally. Accordingly, a movement of the operating portion 22, where guides 12d and 12e are operated with corresponding components of the pedal device, is translated into a horizontal direction **and not** raised or lowered. The operating portion 22 of Sitrin simply moves forward or reward in its operation, as indicated in column 4, lines 39-40.

Applicant respectfully notes that Sitrin does not recite every element of the Applicant's claims 1-5 and 10-12. That is, Sitrin does not disclose or suggest a pedal device having a pair of guides which are "formed and positioned such that a vertical position of said operating portion changes as said operating portion is moved in said longitudinal direction," (Emphasis added). Sitrin does not appear to disclose the Applicant's concept of changing a vertical position of the operating portion 18 while being translated into the longitudinal direction (forward / rearward), as shown by solid and dotted lines of the operating portion 18 of the Applicant's FIG. 1.

In other words, while the Examiner is correct in noting that the disclosure of Sitrin corresponds to Japanese Utility Model #6-40292, a prior art cited and addressed by the Applicant, Sitrin suffers from the same problem as Japanese Utility Model #6-40292. That is, the pedal arm of Sitrin has constant attitude due to a translational movement necessitated by its components in the longitudinal direction of the vehicle.

With respect to claims 2 and 3, Sitrin also does not teach the features recited therein. For example, contrary to the Examiner's assertions, Sitrin does not disclose or suggest a pedal device having "a pair of straight guides which are positioned such that extension lines of said straight guides intersect each other such that an attitude of said operating portion changes....," as recited in claim 2 (Emphasis added). Furthermore, Sitrin does not disclose or suggest a pedal device having the straight guides which are positioned such that "the vertical position of said operating portion is lowered while an operating surface of said operating portion is gradually inclined upwards....," as recited in claim 3 (Emphasis added).

In this case, the phrase “attitude” is used to refer to an inclination of the operating surface 18f of the operating portion 18, as illustrated by solid and dotted lines of the operating portion 18 of the Applicant’s FIG. 1

Referring to the Office Action, Exhibit 1 (FIGS. 1 and 2 of Sitrin) cited by the Examiner, Applicant respectfully notes that extension lines of guides 12d and 12e do not intersect each other. On the other hand, a guide 14a, which may have been mistakenly selected by the Examiner to pair with the guide 12d, is provided for a different function, and accordingly, the 14a and 12d pair **do not** cooperate with each other to change the attitude of the operating portion 22.

In particular, the guide 14a, which is selected by the Examiner to draw an extension line, is provided in Sitrin to move a pivot pin 32 in upward and downward directions, so as to maintain “the ratio between the distance from the pivot axis defined by pivot pin 32 to pedal pad 22 and the distance from the pivot axis to pin 18..,” as disclosed in column 4, lines 45-48 of Sitrin. In other words, the direction of the operating portion 22 **is not** defined by the pair of guides 14a and 12d. Rather, it is defined by the guides 12d and 12e which are a pair of parallel straight slots, and extensions thereof do not intersect each other. The S point depicted by the Examiner in the Exhibit 1 is therefore derived from a combination of wrong guides 14a and 12d, and is not correct. Accordingly, Sitrin does not teach or suggest the Applicant’s concept of changing the attitude of an operating portion or having an operating surface of the operating portion inclined upwards along with the movement of the operating portion in a vertical direction.

With Respect to Toelke et al. and Claims 1-2 & 4-5

The Examiner correctly notes that Toelke et al. appears to disclose a pedal device having guides 28 and 30 which are inclined, and extension lines which intersect each other. However, an operating portion 16 of the pedal device of Toelke et al. does not move in a vertical direction, and therefore, does not show or describe every element of Applicant’s claims 1-5 and 10-12. That is, Toelke et al. appears to disclose guides 28 and 30 which are parallel to each other, substantially straight and horizontal, such that first and second members (upper and lower pedal arms 12 and 14) are moved relative to each other along the guides 28 and 30, in other words, in a horizontal direction (See column 5, lines 40-42 and FIGS. 14 and 17 of Toelke et al.).

Simply put, Toelke et al. does not disclose or suggest a pedal device having a pair of guides which are “formed and positioned such that a vertical position of said operating portion changes as said operating portion is moved in said longitudinal direction,” (Emphasis added). In fact, Toelke et al. expressly discloses to the contrary.

For example, Toelke et al. discloses that two guides 28a and 28b (non-parallel slots/embodiment of FIG. 9) are formed such that the pedal 16 moves or travels “along a substantially linear horizontal path,” that is, the pedal 16 “moves in a forward/rearward direction and generally **remain at the same height**.” (See column 9, lines 42-44 and 63-65, column 10, lines 40-42 and column 12, lines 22-54 of Toelke et al.) With respect to a pedal movement of embodiments of FIGS. 14 and 17, having similar structure of that of the embodiment of FIG. 9, Toelke et al. does not provide any disclosure stating the otherwise. That is, contrary to the Examiner’s assertion, Toelke et al. expressly discloses a pedal device having an operating portion which moves only in a horizontal direction.

In order for a document to anticipate a claim, the document **must teach each and every element of the claim**. See MPEP §2131. Accordingly, since neither Sitrin nor Toelke et al. teaches the features recited in claims 1 and 12, as stated above, withdrawal of the § 102(a) rejections is earnestly solicited. In addition, claims 2-5 and 10-11 are allowable at least due to their dependency on claim 1, as well as for the additional features recited therein, and withdrawal of the §102(a) rejections for these claims is also respectfully requested.

Furthermore, as stated above, non-elected claims 6-9 are dependent on generic claim 1 and include all the limitations of the claim 1. Applicant respectfully submits that generic claim 1 is in condition for allowance, and therefore, all dependent claims including claims 6-9 should be included in allowance, as provided by 37 CFR 1.141. An action to that effect is courteously solicited.

**CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

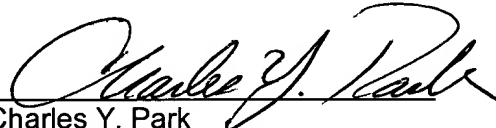
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE****IN THE SPECIFICATION:**

Please **AMEND** paragraphs 44, 46 and 49 of the specification as follows:

[0044] The pivotal arm 26 has a pair of straight guides in the form of a pair of straight elongate holes 32, 34 formed therethrough, while the lower arm 28 has a pair of guide pieces 36, 38 fixedly provided thereon so as to be linearly movable in engagement with the respective elongate holes 32, 34. The position adjusting device 30 indicated above includes these elongate holes 32, 34 and guide pieces 36, 38, as well as the relative-movement device 40 indicated above. The relative-movement device 40 is arranged to linearly move the guide piece 36 in the longitudinal direction of the elongate hole 32, while being guided by the elongate hole 32, so that at the same time the other guide piece 38 is linearly moved while being guided by the other elongate hole 34, whereby the lower arm 28 is moved relative to the pivotal arm 26, so as to move the pad 18 in the longitudinal direction of the vehicle. The two elongate holes 32, 34 are positioned and oriented such that extension lines EXT 1 and EXT 2 of the elongate holes 32, 34 in their longitudinal direction intersect each other, as shown in Fig. 1, and so that the position of the pad 18 is gradually lowered while an operating surface 18f of the pad 18 is gradually inclined upwards (rotated in the counterclockwise direction as seen in Fig. 1) as the pad 18 is moved toward the fully retracted or rearmost position (indicated by the one-dot chain line in Fig. 1). In Fig. 1, "S" represents a point of intersection of two straight lines which pass the midpoints of the lengths of the respective elongate holes 32, 34 and which are perpendicular to the longitudinal direction of the elongate holes 32, 34. At the fully advanced and retracted positions, the pad 18 has two different attitudes which would be taken if the lower arm 28 were pivoted with the pad 18, about the intersection point S. The position adjusting device 30 is adapted such that the fully retracted position of the pad 18 is substantially right under the intersection point S, as indicated in Fig. 1, and such that angles  $\theta_1$  and  $\theta_2$  of inclination of the operating surface 18f at the fully advanced and retracted positions with respect to the horizontal plane (substantially parallel to the vehicle floor) and an angle  $\alpha$  formed by the intersection point S and two straight lines connecting the point S and the centers of the operating surface 18f at the fully advanced and retracted positions, satisfy an equation  $\theta_1 + \alpha = \theta_2$ . Thus, the operating surface 18f at the fully retracted position of the pedal arm 16 is inclined so as to face more upwards by the angle  $\alpha$ , than that at the fully advanced position. It will be understood that the pivotal arm 26 and the lower arm 28 of the pedal arm 16 respectively serve as a first member and a second member of



the position adjusting device 30. It is noted that since the lower arm 28 is not actually pivoted about the intersection point S, the pad 18 at a position between the fully advanced and retracted positions does not have an attitude which would be taken if the lower arm 28 were pivoted about the intersection point S.

[0046] In the present brake pedal device 10, the lower arm 28 is connected to the pivotal arm 26 through mutual engagement of the pair of straight elongate holes 32, 34 and the pair of guide pieces 36, 38, such that the pivotal and lower arms [28]26, 28 are movable relative to each other in the above-indicated plane by an operation of the relative-movement device 40, so that the pedal pad 18 provided at the lower end of the lower arm 28 is movable in the longitudinal direction of the vehicle. Further, the arrangement of the elongate holes 32, 34 such that the extension lines EXT 1 and EXT 2 of these elongate holes 32, 34 intersect each other permits a change of the attitude of the pedal pad 18 as the pedal pad 18 is moved in the longitudinal direction so that the pedal arm 16 can be operated with a high degree of operational ease, at the suitably inclined operating surface 18f of the pedal pad 18, irrespective of the position of the pedal pad 18 in the longitudinal direction.

[0049] It is also noted that the attitude of the pedal pad 18 can be changed with a change in the longitudinal position of the pedal pad, by a simple mechanism which has the pair of straight elongate holes 32, 34 whose extension lines EXT 1 and EXT 2 intersect each other, and the pair of guide pieces 36, 38 engaging the elongate holes 32, 34. The straight elongate holes 32, 34 and the guide pieces 36, 38 can be easily formed or manufactured. Accordingly, the present brake pedal device 10 is simpler in construction and available at a lower cost of manufacture, than the known brake pedal device using an arcuate hole and an arcuate rack. In addition, the elongate holes 32, 34 can be formed in the pivotal arm 26 at desired positions, so as to reduce the size of the brake pedal device 10, while assuring a required degree of strength at the connection of the pivotal and lower arms 26, 28.

Please **DELETE** the entire contents of lines 6-8 at page 1, which read as follows:

-- This application is based on Japanese Patent Application No. 2000-391310 filed December 22, 2000, the contents of which are incorporated hereinto by reference. --

**IN THE CLAIMS:**

Please AMEND claims 1-4 and ADD new claims 10-12 as follows:

1. (ONCE AMENDED) A pedal device mounted on a bracket fixed to a body of an automotive vehicle, and including a pedal arm having an operating portion at a lower end thereof, and a position adjusting device operable to adjust a position of said operating portion in a longitudinal direction of the automotive vehicle [when]where said pedal arm is placed in a non-operated state thereof, said position adjusting device comprising:

a first member having a pair of guides;

a second member disposed movably relative to said first member in [a substantially] an approximately vertical plane [substantially] approximately parallel to said longitudinal direction, and having a pair of guide pieces which are movable in engagement with said pair of guides, respectively; and

a positioning device operable to establish a desired relative position between said first and second members, by moving said pair of guides and said pair of guide pieces relative to each other, said positioning device permitting said first and second members [permitting said first and second members] to maintain said desired relative position after said desired relative position is established,

wherein one of said first and second members has said operating portion and is movable relative to the other of said first and second members, to move said operating [position] portion in said longitudinal direction,

and wherein said pair of guides are formed and positioned such that [an attitude] a vertical position of said operating portion changes as said operating portion is moved in said longitudinal direction.

2. (ONCE AMENDED) [A]The pedal device according to claim 1, wherein said pair of guides [consist of]comprise a pair of straight guides which are positioned such that extension lines of said straight guides intersect each other such that [said] an attitude of said operating portion changes as said operating portion is moved in said longitudinal direction as a result of a relative movement of said first and second members with said pair of guide pieces being moved in engagement with said pair of straight guides, respectively.

3. (ONCE AMENDED) [A]The pedal device according to claim 2, wherein said pair of straight guides are position such that [a]the vertical position of said operating portion is lowered while an operating surface of said operating portion is gradually inclined upwards as said operating portion is moved in a rearward direction of the vehicle [toward a seat of an operator of the vehicle] parallel to said longitudinal direction.

4. (ONCE AMENDED) [A]The pedal device according to claim 2, wherein said second member has said operating portion and is movable relative to said first member, and said positioning device comprises a relative-movement device including a feedscrew disposed on said first member such that said feedscrew is parallel to one of said pair of straight guides and rotatable about an axis thereof, and an internally threaded member connected to one of said guide pieces which engages said one of said pair of straight guides, said internally threaded member being held in engagement with said feedscrew and pivotable relative to said second member about an axis perpendicular to said [substantially] approximately vertical plane, and wherein said relative-movement device is operable to rotate said feedscrew to move said second member relative to said first member and maintain said desired relative position between said first and second members after a rotary motion of said feedscrew is terminated.

10. (NEW) The pedal device according to claim 1, wherein said pair of guides are formed and positioned such that the vertical position of said operating portion changes while an operating surface of said operating portion is gradually inclined as said operating portion is moved in said longitudinal direction.

11. (NEW) The pedal device according to claim 1, wherein said pair of guides are formed and positioned such that the vertical position of said operating portion is lowered while an operating surface of said operating portion is gradually inclined upwards as said operating portion is moved in a rearward direction of the vehicle parallel to said longitudinal direction.

12. (NEW) A pedal device mounted on a bracket fixed to a body of an automotive vehicle, and including a pedal arm having an operating portion at a lower end thereof, and a position adjusting device operable to adjust a position of said operating portion in a longitudinal direction of the automotive vehicle where said pedal arm is placed in a non-operated state thereof, said position adjusting device comprising:

a first member having a pair of straight guides which are positioned such that extension lines of said straight guides intersect each other;

a second member disposed movably relative to said first member in a vertical plane parallel to said longitudinal direction, and having a pair of guide pieces which are movable in engagement with said pair of guides, respectively; and

a positioning device operable to establish a desired relative position between said first and second members, by moving said pair of guides and said pair of guide pieces relative to each other, said positioning device permitting said first and second members to maintain said desired relative position after said desired relative position is established,

wherein one of said first and second members has said operating portion and is movable relative to the other of said first and second members, to move said operating portion in said longitudinal direction, and

wherein said pair of straight guides whose extension lines intersect each other are formed and positioned such that a vertical position of said operating portion is lowered while an operating surface of said operating portion is gradually inclined upwards as said operating portion is moved in a rearward direction of the vehicle parallel to said longitudinal direction.